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Nos. 83-1321, 83-1432, 83-1433
83-1442, 83-1443, 83-1618

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

THE PEOPLE OF THE STATE OF CALIFORNIA, *et al.*,
Petitioners,

v.

TENNECO OIL COMPANY, *et al.*,
Respondents.

On Petitions For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

SUPPLEMENTAL MEMORANDUM OF UNION OIL CO. OF CALIFORNIA

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SUPPLEMENTAL MEMORANDUM OF UNION OIL CO. OF CALIFORNIA

Respondent Union Oil Company of California ("Union") files this Supplemental Memorandum pursuant to the invitation of the Court, as evidenced by the Clerk's letter of May 31, 1984. Although Union will leave it to the parties to that settlement to discuss the offer of settlement and agreement filed with the Federal Energy Regulatory Commission ("FERC") on May 18, 1984,[1] it de-

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[1] Union cannot help noting, however, the stark inconsistency between the statement on p.3 of the Supplemental Memorandum of Petitioner El Paso Natural Gas Company ("EP. Supp. Mem.") ("[n]either settlement renders the matters before the Court moot, in whole or in part") and point G of the summary of the El Paso-Tenneco-Conoco settlement, which provides that the parties "shall file with the Supreme Court a suggestion of mootness to reflect that a full and final settlement between the parties has been reached" (EP. Supp. Mem. at 7a).

scribes and discusses below its own settlement, entered into on November 11, 1983.[2]

As noted in Union's Brief in Opposition, p. 7, n.9, the November 11, 1983 settlement between Union and El Paso Natural Gas Co. ("El Paso") does not purport to affect periods prior to its effective date. It therefore leaves the jurisdictional question raised by the petitions, and the issue of potential refunds, unresolved for the retroactive period.

Union agreed to accept reassignment of the leases covered by GLA's 76, 348, and 349, upon receipt from the FERC of a satisfactory certificate under Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c) (1982) ("NGA"), and acceptance by the FERC of the gas purchase contract negotiated between Union and El Paso as Union's initial rate schedule under Section 4 of the NGA. Pursuant to that agreement, Union filed, on December 13, 1983, an application with the FERC for a certificate of public convenience and necessity authorizing it to sell gas from the GLA leases to El Paso. That application remains pending in Docket No. CI84-141-000.

Contrary to the assertion at EP.Supp. Me. 5, the questions before the FERC in Docket CI84-141-000 do not depend on the outcome of the jurisdictional issue presented in the petitions. Only in El Paso's convoluted world—where GLA transactions that have been uniformly treated and defended as nonjurisdictional for twenty years suddenly become jurisdictional when it suits El

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[2] The parties are currently discussing certain proposed changes in the Union settlement; however, none of the changes presently under consideration would affect the general principles of the settlement set out below.

Paso's business needs—can its agreements to *settle* these cases be viewed as *supporting* its petition for review by this Court.

The Union settlement, if it becomes effective, would eliminate, as to Union, the jurisdictional issue presented by the petitions for periods after its effective date. To that extent, therefore, it would also eliminate any public interest in review of the jurisdictional question.

Respectfully submitted,

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